

Appeal Nos. 2023-1218, 2023-1274

UNITED STATES COURT OF APPEALS

for the

FEDERAL CIRCUIT

SUNOCO PARTNERS MARKETING & TERMINALS L.P.,
Plaintiff-Appellant,

v.

POWDER SPRINGS LOGISTICS, LLC,
MAGELLAN MIDSTREAM PARTNERS L.P.,
Defendants-Cross-Appellants.

Appeals from the United States District Court for the District of Delaware
in No. 1:17-cv-01390-RGA, Judge Richard G. Andrews

**APPELLANT'S UNOPPOSED MOTION FOR A
30-DAY EXTENSION OF TIME TO FILE RESPONSE AND REPLY BRIEF**

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Marketing & Terminals L.P.*

August 21, 2023

FORM 9. Certificate of Interest

Form 9 (p. 1)
July 2020

**UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT**

CERTIFICATE OF INTEREST

Case Number 2023-1218, 2023-1274

Short Case Caption Sunoco Partners Marketing & Terminals L.P. v. Powder Springs Logistics, LLC

Filing Party/Entity Sunoco Partners Marketing & Terminals L.P.

Instructions: Complete each section of the form. In answering items 2 and 3, be specific as to which represented entities the answers apply; lack of specificity may result in non-compliance. **Please enter only one item per box; attach additional pages as needed and check the relevant box.** Counsel must immediately file an amended Certificate of Interest if information changes. Fed. Cir. R. 47.4(b).

I certify the following information and any attached sheets are accurate and complete to the best of my knowledge.

Date: 01/13/2023

Signature: /s/ John R. Keville

Name: John R. Keville

FORM 9. Certificate of Interest

Form 9 (p. 2)
July 2020

1. Represented Entities. Fed. Cir. R. 47.4(a)(1).	2. Real Party in Interest. Fed. Cir. R. 47.4(a)(2).	3. Parent Corporations and Stockholders. Fed. Cir. R. 47.4(a)(3).
Provide the full names of all entities represented by undersigned counsel in this case.	Provide the full names of all real parties in interest for the entities. Do not list the real parties if they are the same as the entities. <input checked="" type="checkbox"/> None/Not Applicable	Provide the full names of all parent corporations for the entities and all publicly held companies that own 10% or more stock in the entities. <input type="checkbox"/> None/Not Applicable
Sunoco Partners Marketing & Terminals L.P.		Energy Transfer L.P.

☐ Additional pages attached

FORM 9. Certificate of Interest

Form 9 (p. 3)
July 2020

4. Legal Representatives. List all law firms, partners, and associates that (a) appeared for the entities in the originating court or agency or (b) are expected to appear in this court for the entities. Do not include those who have already entered an appearance in this court. Fed. Cir. R. 47.4(a)(4).

☒ None/Not Applicable ☐ Additional pages attached

Winston & Strawn LLP	Eric S. Schlichter	Richard T. McCarty
Phillips, McLaughlin & Hall, P.A.	Megan C. Haney	David A. Bilson
John C. Phillips , Jr.		

5. Related Cases. Provide the case titles and numbers of any case known to be pending in this court or any other court or agency that will directly affect or be directly affected by this court's decision in the pending appeal. Do not include the originating case number(s) for this case. Fed. Cir. R. 47.4(a)(5). See also Fed. Cir. R. 47.5(b).

☐ None/Not Applicable ☐ Additional pages attached

Sunoco Partners Marketing & Terminals L.P. v. U.S. Venture, et al., 1:15-cv-08178 (N.D. Ill. 2015)		
Sunoco Partners Marketing & Terminals L.P. v. U.S. Venture, Inc., No. 22-1899 (Fed. Cir. 2022)		

6. Organizational Victims and Bankruptcy Cases. Provide any information required under Fed. R. App. P. 26.1(b) (organizational victims in criminal cases) and 26.1(c) (bankruptcy case debtors and trustees). Fed. Cir. R. 47.4(a)(6).

☒ None/Not Applicable ☐ Additional pages attached

Pursuant to Federal Circuit Rules 26(b) and 27 and Federal Rule of Appellate Procedure 27, Plaintiff-Appellant Sunoco Partners Marketing & Terminals L.P. (“Sunoco”) respectfully requests a 30-day extension of time in which to file its Response and Reply Brief, from August 30, 2023 to September 29, 2023. This is the first extension that Sunoco has sought in this matter with respect to its combined Response and Reply Brief. Sunoco previously received unopposed extensions totaling 51 days for its Opening Brief (Dkt. Nos. 14, 16, 18), while Defendants-Cross-Appellants received unopposed extensions totaling 74 days for their Opening and Response Brief (Dkt. Nos. 21, 23).

Defendants-Cross-Appellants have been consulted about this motion and have graciously consented to the requested extension, so no opposition will be filed.

As explained in the Declaration of Michelle C. Replogle, Sunoco has good cause to request this extension. Counsel for Sunoco have multiple professional commitments that unavoidably restrict their ability to fully address all of the issues necessary to support its own appeal while also opposing the issues raised by the cross-appeal under the current deadline. Moreover, overlapping scheduling conflicts with other briefing obligations were unexpectedly created as a result of the Defendants-Cross-Appellants being required to seek an additional 14-day extension for filing their Opening and Response Brief (Dkt. No. 23) beyond the 60 days that had been originally requested and granted (Dkt. No. 21). This motion is not being

filed for purposes of delay, but in order to most efficiently manage the conflicting dockets and varying obligations of the multiple attorneys responsible for preparing and filing Sunoco's upcoming brief.

Sunoco therefore submits that good cause exists for the requested extension, and believes that the requested extension represents the minimum additional amount of time currently believed necessary to prepare and finalize its Response and Reply Brief in a manner that would be of most assistance to the Court. Accordingly, Sunoco respectfully requests that the deadline for its Response and Reply Brief be extended to and including Friday, September 29, 2023.

Dated: August 21, 2023

Respectfully submitted,

/s/ Michelle C. Replogle
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*Counsel for Appellant
Sunoco Partners Marketing &
Terminals L.P.*

DECLARATION OF MICHELLE C. REPLOGLE

1. I am a member of the bar of this Court and a partner in the Houston, Texas office of the law firm of Sheppard, Mullin, Richter & Hampton, LLP.

2. I have previously entered an appearance in this Court on behalf of Appellant Sunoco Partners Marketing & Terminals L.P. (“Sunoco”) in the subject appeals (Nos. 2023-1218, 2023-1274). I also was one of the counsel who represented Sunoco in the underlying proceeding held before the United States District Court for the District of Delaware.

3. I am making this declaration in support of Sunoco’s request for a 30-day extension of time to file its Response and Reply Brief in this matter. I have knowledge of the facts set forth in Sunoco’s motion, and would be able to testify to them if called as a witness.

4. Sunoco’s Response and Reply Brief is currently due on August 30, 2023. This is Sunoco’s first request for an extension of time for its Response and Reply Brief. Sunoco previously received unopposed extensions totaling 51 days for its Opening Brief (Dkt. Nos. 14, 16, 18), while Defendants-Cross-Appellants received unopposed extensions totaling 74 days for their Opening and Response Brief (Dkt. Nos. 21, 23).

5. On August 18, 2023, counsel for Sunoco sent an email to counsel for Defendants-Cross-Appellants regarding this motion and Sunoco’s request for a 30-

day extension of time. On August 21, 2023, by email, Defendants-Cross-Appellants confirmed that they do not oppose this motion.

6. Several professional conflicts for Sunoco's appellate counsel contribute to the difficulty of completing the Response and Reply Brief by August 30, 2023. These professional conflicts include: post-trial briefing and motions in *MGA Entertainment Inc. v. Harris et al.*, No. 2:20-cv-11548-JVS-AGR (C.D. Cal. 2020); post-trial depositions and discovery in *Zest Labs Inc. v. Walmart Inc.*, No. 4:18-cv-00500 (E.D. Ark. 2018); expedited discovery and temporary restraining order proceedings in *Weatherford International LLC et al. v. Ameen*, No. 4:23-cv-2420 (S.D. Tex. 2023); and a discovery dispute hearing in *Patriot Research Center, LLC v. Cameron International Corporation*, No. 4:21-cv-01822 (S.D. Tex. 2021).

I declare under penalty of perjury under 28 U.S.C. § 1746 that the foregoing is true and correct.

Executed on August 21, 2023.

/s/ Michelle C. Replogle
Michelle C. Replogle

**UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT**

**CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME
LIMITATIONS**

Case Number: 2023-1218, 2023-1274

Short Case Caption: Sunoco Partners Marketing & Terminals L.P. v.

Powder Springs Logistics, LLC

Instructions: When computing a word, line, or page count, you may exclude any items listed as exempted under Fed. R. App. P. 5(c), Fed. R. App. P. 21(d), Fed. R. App. P. 27(d)(2), Fed. R. App. P. 32(f), or Fed. Cir. R. 32(b)(2).

The foregoing filing complies with the relevant type-volume limitation of the Federal Rules of Appellate Procedure and Federal Circuit Rules because it meets one of the following:

- ☒ the filing has been prepared using a proportionally-spaced typeface and includes 333 words.
- ☐ the filing has been prepared using a monospaced typeface and includes _____ lines of text.
- ☐ the filing contains _____ pages / _____ words / _____ lines of text, which does not exceed the maximum authorized by this court's order (ECF No. _____).

Date: August 21, 2023 Signature: /s/ Michelle C. Replogle

Name: Michelle C. Replogle

CERTIFICATE OF SERVICE

I hereby certify that, on August 21, 2023, I caused a copy of the foregoing document to be filed electronically with the U.S. Court of Appeals for the Federal Circuit using the CM/ECF system, which will send a notification to all counsel of record.

/s/ Michelle C. Replogle
Michelle C. Replogle